

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CODY DIJKSTRA,

Plaintiff,

v.

CAMPOS, *et al.*,

Defendants.

Case No. 1:21-cv-01223-HBK

ORDER TO SHOW CAUSE WHY  
PLAINTIFF'S MOTION TO PROCEED *IN*  
*FORMA PAUPERIS* SHOULD NOT BE  
DENIED

(Doc. No. 2)

FOURTEEN-DAY DEADLINE

Plaintiff Cody Dijkstra, a prisoner, initiated this action by filing a *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983 on August 12, 2021. (Doc. No. 1). Plaintiff accompanied the filing of his complaint with an application to proceed *in forma pauperis* ("IFP"). (Doc. No. 2).

The certified trust account submitted by the California Department of Corrections and Rehabilitation in support of Plaintiff's IFP application reflects a balance of \$1,110.21 as of August 16, 2021. (Doc. No. 6). This amount well exceeds the \$402.00 filing fee for this action. Plaintiff is therefore ordered to show cause why he meets the indigence requirement for eligibility to proceed IFP.

Proceeding IFP is "a matter of privilege and not right." *Franklin v. Murphy*, 745 F.2d 1221, 1231 (9th Cir. 1984) (abrogated on different grounds). While IFP applicants need not be

1 “destitute” a showing of indigence is required. *Adkins v. E.I. DuPont de Nemours & Co.*, 335  
2 U.S. 331, 339–40 (1948). Plaintiff must allege indigence “with some particularity, definiteness  
3 and certainty” before IFP can be granted. *United States v. McQuade*, 647 F.2d 938, 940 (9th Cir.  
4 1981).

5 Plaintiff appears to have adequate funds to pay the filing fee for this action in full. While  
6 a balance of \$1,110.21 appears modest at first blush it is sizeable considering Plaintiff does not  
7 incur expenses in prison for necessities such as sustenance, housing and medical care. Plaintiff  
8 therefore is ordered to show cause why he cannot afford to pay the filing fee and is entitled to  
9 proceed IFP. Failure to respond will result in a recommendation that this action be dismissed for  
10 failure to obey a court order.

11 Accordingly, it is **ORDERED**:

12 Within **fourteen days** from receipt of this Order, Plaintiff shall either: (1) withdraw his  
13 motion to proceed *in forma pauperis* and direct CDCR to pay the \$402.00 filing fee; or (2) show  
14 cause why he meets the indigence requirement to proceed *in forma pauperis*.

15  
16 Dated: August 20, 2021

  
HELENA M. BARCH-KUCHTA  
UNITED STATES MAGISTRATE JUDGE